

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA)
)
)
vs.) NO. 04-30004-MAP
)
ROOSEVELT ARCHIE)

MOTION TO WITHDRAW GUILTY PLEA

Now comes the defendant in the above entitled action and moves this Honorable Court for an order granting the defendant's request to withdraw his plea to Count 3 of the indictment and asserts as his basis the following:

1. The defendant plead guilty pursuant to a Plea Agreement which incorrectly set forth the penalty the defendant would be exposed to as a matter of law.
2. The defendant tendered the plea in reliance upon the penalty set forth in the Plea Agreement and has been prejudiced thereby.

Counsel for the defendant has conferred with AUSA Paul Smyth who does not oppose this request.

WHEREFORE, defendant moves that he be permitted to withdraw his plea to Count 3 of the indictment.

THE DEFENDANT

BY: /s/ Vincent A. Bongiorni, Esq.
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CERTIFICATE OF SERVICE

I, Vincent A. Bongiorni, Esq., do hereby certify that I have served a copy of the foregoing to Assistant United States Attorney, Paul Smyth, Esq., United States District Court, 1550 Main Street, Springfield, MA. 01103 this 18th day of January 2007.

/s/ Vincent A. Bongiorni
